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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,419	05/15/2006	Jozef Pieter Van Gassel	NL 031339	7897

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BRIARCLIFF MANOR, NY 10510

EXAMINER

PENDLETON, DIONNE

ART UNIT

PAPER NUMBER

2627

MAIL DATE

DELIVERY MODE

05/29/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/579,419

Applicant(s)

VAN GASSEL, JOZEF PIETER

Examiner

DIONNE H. PENDLETON

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6 and 8-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 8-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/15/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1-3 and 8-11** are rejected under 35 U.S.C. 103(A) as being unpatentable over **Wu (US Patent Number 6865627)**, hereafter Wu'627 in view of **Wu (US Patent Number 6535470)**, hereafter Wu'470.

Regarding claims 1 and 8,

Wu'627 discloses: A playback device (figure 1, item 176) for playback of a media stream from a storage medium (column 6, lines 17-21), the device comprising reading means for reading at least a part of the media stream (column 4, lines 23-49), a buffer (figure 2, item 210) for holding the part of the media stream (columns 6 & 7, lines 61-67 & 1-12), a playback unit (figure 2, item 204) for consuming the part of the media stream from the buffer (column 6, lines 61-67) at a predefined rate (column 7, lines 13-25), and control means for controlling the reading of the media stream from the storage medium (column 7, lines 13-25), filling of the buffer and the playback of the media stream (columns 6 & 7, lines 61-67 & 1-12), wherein the control means comprise means for retrieving playback mode control information (column 7, lines 26-54), and means for

calculating a buffer refilling time depending on the playback mode control information (column 7, lines 26- 54).

Wu'627 fails to specifically disclose that the playback control information is retrieved from a storage area on the storage medium.

Wu'470 teaches that the constant angular velocity (CAV), interpreted as corresponding at least in part to "playback mode control information", and used for establishing data playback/transfer rate, is retrieved from the ATIP field of the disk, and is further use for initializing first and second buffers (142-1, 142-2), see column 12, lines 35-53, and column 13, lines 10-15.

It would have been obvious for one of ordinary skill in the art at the time of the invention to alter the device of Wu'627 so as to provide playback control information in a storage area of the storage medium as is taught by Wu'470, for the purpose of rotating the storage medium at a constant angular velocity which is specific to the type of storage medium in use and well as specific to the manufacturing specification of the storage medium.

Regarding claim 2,

Wu'627 teaches that the means for retrieving playback mode control information are arranged for retrieving characteristic point information (columns 9 & 10, lines 43-67 & 1-13; figure3) and the means for calculating the buffer refilling time are arranged for calculating the buffer refilling time depending on the characteristic point information (column 7, lines 26-54).

Regarding claims 3 and 9.

Wu'627 discloses: The control means are arranged for calculating the buffer filling period depending on information concerning retrieval of the media stream (columns 6 & 8, lines 17-46 & 54-60).

Regarding claim 10.

Wu'627 teaches a computer program product which program is operative to cause a processor to perform the method (abstract).

Regarding claim 11.

Wu'627 discloses that the control means are arranged for calculating the buffer filling period depending on information from the file system info (columns 6 & 8, lines 17-46 & 54-60).

2. **Claims 4 and 6** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wu (US Patent Number 6865627)** and **Wu (US Patent Number 6535470)**, as applied to claim 3 above, and further in view of **Jacobs et al (US Patent Number 5802032)**.

Regarding claims 4 and 6.

Wu'627 and Wu'470 disclose the features of base claim 3, but fail to specifically teach that the control means are arranged for calculating the buffer filling period

depending on information about the location of the part of the media stream on the storage medium.

Jacobs discloses: A playback device (figure 5) for playback of a media stream from a storage medium (column 8, lines 36-43), the device comprising reading means for reading at least a part of the media stream (figure 4, item 4), a playback unit for consuming the part of the media stream (column 1, lines 10-33) at a predefined rate (column 8, lines 44-67); A control means are arranged for calculating the frequency of the data signal (column 8, lines 43-67) depending on information about the location of the part of the media stream on the storage medium (column 8, lines 43-67). A control means arranged for calculating the frequency of the data signal depending on information about the position of a disk head (column 8, lines 43-67).

It would have been obvious to one of ordinary skill in the art at the time the invention of the invention to use the radial position of the head to calculate the refill time of the buffer of Wu, as suggested by Jacobs, because for a constant angular velocity and pulse width, it is inherent that a larger radial position will increase the frequency of the data signal, therefore, the refill time will decrease with increase of radius of the head position.

Response to Arguments

3. Applicant's arguments with respect to claims finally rejected in the Non-Final rejection mailed 11/3/2008 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIONNE H. PENDLETON whose telephone number is (571)272-7497. The examiner can normally be reached on 10:30-7:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dionne H Pendleton/
Examiner, Art Unit 2627

/Wayne Young/
Supervisory Patent Examiner, Art Unit 2627